

In the Matter of Merchant Mariner's Document No. Z-378801-D1 and
all other Seaman Documents

Issued to: Alex A. Sroda

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1406

Alex A. Sroda

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 13 November 1961, an Examiner of the United States Coast Guard at Jacksonville, Florida revoked Appellant's seaman documents upon finding him guilty of misconduct. The six specifications found proved allege that while serving as an able seaman on board the United States SS AMERICAN RETAILER under authority of the document above described, between 7 and 27 October 1961, Appellant failed to perform his duties due to intoxication on three occasions; he disobeyed an order of the Master to stand by the steering wheel; Appellant threatened the Second Mate with physical violence; and he left his lookout station without being relieved.

At the hearing, Appellant was represented by non-professional counsel. Appellant entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence entries from the ship's Official Logbook as well as the testimony of the Master, Chief Mate, Second Mate and an able seaman.

The only evidence in defense was Appellant's own testimony in which he denied his guilt with respect to some of the alleged offenses.

At the end of the hearing on 31 October 1961, the Examiner rendered an oral decision in which he concluded that the charge and six specifications had been proved. Appellant surrendered his document at this time. Efforts to locate Appellant in order to serve the written decision were not successful until 14 January 1963.

Appellant contends, on appeal, that he was not represented by counsel and was not afforded the opportunity to produce witnesses

in his behalf. Therefore, Appellant takes exception to the findings pertaining to all six specifications.

OPINION

The record shows that a union representative was present at the hearing. Appellant acknowledge that this person was his counsel, and the latter cross-examined all the Government witnesses except the able seaman.

The record also shows that Appellant was informed of his right to have witnesses subpoenaed by the Investigating Officer prior to the hearing and by the Examiner at the beginning of the hearing. After Appellant testified, his counsel replied in the negative when asked by the Examiner if there were any other witnesses for Appellant.

Consequently, these contentions have no merit. It is my opinion that there is substantial evidence to prove the specifications except the one alleging that Appellant left his lookout station without permission. There is no evidence in the testimony of the two witnesses who testified about this incident, the Master and the Chief Mate, that Appellant was ordered to stand the lookout watch. Hence, I accept Appellant's testimony that he was temporarily on bow because he "was trying to cover" but that he had not been ordered to stand the lookout watch. The conclusion that this specification was proved is set aside and the specification is dismissed.

On the basis of the offenses found proved by the Examiner and Appellant's prior record of similar offenses, the Examiner concluded that Appellant was not a fit person to serve in the United States Merchant Marine and revoke his seaman's document. I see no reason to change this determination despite the dismissal of one of the six specifications.

ORDER

The order of the Examiner dated at Jacksonville, Florida, on 13 November 1961, is AFFIRMED.

E. J. Roland
Admiral, United States Coast Guard
Commandant

Signed at Washington, D.C., this 18th day of July 1963.

